

Introduced by Senator Denham

February 27, 2009

An act to amend Sections 927.6 and 927.7 of the Government Code, relating to the California Prompt Payment Act.

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as introduced, Denham. California Prompt Payment Act: disabled veteran business enterprises.

Existing law, the California Prompt Payment Act, requires a state agency that acquires property or services pursuant to a contract with a business to make payment to the person or business on the date required by the contract and as specified, or be subject to a late payment penalty. These provisions require a state agency to pay specified penalties to a claimant if the agency fails to submit a correct claim schedule to the Controller by the required payment approval date. These provisions also require the Controller to pay a specified penalty to a claimant if the Controller fails to make a payment within 15 calendar days of receipt of the claim schedule from a state agency, as specified. Those penalties accrue at a higher rate if the claimant is a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, as specified.

Existing law establishes the California Disabled Veteran Business Enterprise Program. This program requires, among other things, that state agencies, departments, officers, and entities, as specified, have statewide participation goals of not less than 3% for disabled veteran business enterprises for contracts entered into during the year, except as specified. Existing law defines a disabled veteran business enterprise for purposes of these provisions.

This bill would include a disabled veteran business enterprise, as defined under the California Disabled Veteran Business Enterprise Program, among the entities to whom those higher penalties are payable under the California Prompt Payment Act, as described above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 927.6 of the Government Code is
2 amended to read:

3 927.6. (a) State agencies shall pay applicable penalties, without
4 requiring that the claimant submit an additional invoice for these
5 amounts, whenever the state agency fails to submit a correct claim
6 schedule to the Controller by the required payment approval date.
7 The penalty shall cease to accrue on the date the state agency
8 submits the claim schedule to the Controller for payment, and shall
9 be paid for out of the state agency's funds. If the claimant is a
10 certified small business, a nonprofit organization, a nonprofit public
11 benefit corporation, ~~or~~ a small business or nonprofit organization
12 that provides services or equipment under the Medi-Cal program,
13 *or a disabled veteran business enterprise, as defined in*
14 *subparagraph (A) of paragraph (7) of subdivision (b) of Section*
15 *999 of the Military and Veterans Code*, the state agency shall pay
16 to the claimant a penalty of one-quarter of 1 percent of the amount
17 due, per calendar day, from the required payment date. However,
18 a nonprofit organization shall only be eligible to receive a penalty
19 payment if it has been awarded a contract or grant in an amount
20 less than five hundred thousand dollars (\$500,000).

21 (b) For all other businesses, the state agency shall pay a penalty
22 at a rate of 1 percent above the rate accrued on June 30 of the prior
23 year by the Pooled Money Investment Account, not to exceed a
24 rate of 15 percent, except that, if the amount of the penalty is
25 seventy-five dollars (\$75) or less, the penalty shall be waived and
26 not paid by the state agency. On an exception basis, state agencies
27 may avoid payment of penalties, for failure to submit a correct
28 claim schedule to the Controller by the required payment approval
29 date, by paying the claimant directly, from the state agency's
30 revolving fund within 45 calendar days following the date upon
31 which an undisputed invoice is received by the state agency.

1 SEC. 2. Section 927.7 of the Government Code is amended to
2 read:

3 927.7. The Controller shall pay claimants within 15 calendar
4 days of receipt of a correct claim schedule from the state agency.
5 If the Controller fails to make payment within 15 calendar days
6 of receipt of the claim schedule from a state agency, the Controller
7 shall pay applicable penalties to the claimant without requiring
8 that the claimant submit an invoice for these amounts. Penalties
9 shall cease to accrue on the date full payment is made, and shall
10 be paid for out of the Controller's funds. If the claimant is a
11 certified small business, a nonprofit organization, a nonprofit public
12 benefit corporation, ~~or~~ a small business or nonprofit organization
13 that provides services or equipment under the Medi-Cal program,
14 *or a disabled veteran business enterprise, as defined in*
15 *subparagraph (A) of paragraph (7) of subdivision (b) of Section*
16 *999 of the Military and Veterans Code*, the Controller shall pay to
17 the claimant a penalty of one-quarter of 1 percent of the amount
18 due, per calendar day, from the 16th calendar day following receipt
19 of the claim schedule from the state agency. However, a nonprofit
20 organization shall only be eligible to receive a penalty payment if
21 it has been awarded a contract or grant in an amount less than five
22 hundred thousand dollars (\$500,000). For all other businesses, the
23 Controller shall pay penalties at a rate of 1 percent above the rate
24 accrued on June 30 of the prior year by the Pooled Money
25 Investment Account, not to exceed a rate of 15 percent, except
26 that, if the amount of the penalty is seventy-five dollars (\$75) or
27 less, the penalty shall be waived and not paid by the Controller.